

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: <u>January 31, 2017</u>
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KELLY PRICE,

Plaintiff,

15 Civ. 5871 (KPF)

v.

ORDERTHE CITY OF NEW YORK, *et al.*,

Defendants.

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KATHERINE POLK FAILLA, District Judge:

On December 2, 2016, the Court directed Plaintiff to file a Fourth Amended Complaint (the “FAC”), for the specific purpose of naming the Jane and John Doe Defendants identified by the City of New York as Inspector Obe and Selvena Brooks. (Dkt. #38). The Court instructed Plaintiff that she was not to use the FAC to “add back” into this litigation “those claims and those parties that have been dismissed from this litigation” in the Court’s December 2 Order and those preceding it. (*Id.*).

On January 3, 2017, Plaintiff filed the FAC. (Dkt. #41). However, the FAC failed to comply with the Court’s December 2 Order because it attempted to add back into this litigation a number of previously terminated Defendants. Accordingly, the Clerk of Court was directed to strike this improper pleading, and the Court deemed Plaintiff’s Third Amended Complaint (Dkt. #21), the operative Complaint in this litigation. (Dkt. #45). The Court substituted

Inspector Obe and Selvena Brooks as parties pursuant to its powers under Federal Rule of Civil Procedure 21. (*Id.*).

The other parties remaining in this action were those named in Plaintiff's Third Amended Complaint and not previously terminated: The City of New York ("the City") and the John Doe Police Officers. (Dkt. #45). The City was directed to advise Plaintiff or the Court of the identities of the John Doe individuals on or before January 31, 2017. (*Id.*). The City was also advised to inform the Court of its intentions regarding the future of this case. (*Id.*). Plaintiff was reminded that if she did not provide the additional information that the City needed to identify these individuals, it might not be possible for her to pursue her claims against them. (*Id.*).

By letter filed today, January 31, 2017, the City has informed the Court that it has been unable to identify the unnamed officers because Plaintiff has still not provided the City with the releases that it needs to do so. (Dkt. #48). The City believes Plaintiff intended to provide these releases, but has not received them and does not know when to expect their production. (*Id.*).

The City also reminds the Court that it has requested a pre-motion conference to discuss its contemplated motion to dismiss Plaintiff's claims against the City, Inspector Obe, and Selvena Brooks pursuant to Federal Rule of Civil Procedure 12(b)(6). (Dkt. #46, 48). The City made this request by letter on January 26, 2017. (Dkt. #46).

The Court has not received any response from Plaintiff opposing the City's pre-motion conference request, which opposition Plaintiff, a *pro se* party,

is permitted but not required to provide. The Court has received Plaintiff's Motion for Reconsideration, filed on January 26, 2017, in which Plaintiff moves the Court to reconsider its dismissal of the FAC. (Dkt. #47).

To resolve these matters, the Court hereby imposes the following schedule:

- If Plaintiff intends to provide any releases to the City, she must do so on or before February 14, 2017. Plaintiff is not required to provide any releases, but is reminded for the third time that her failure to do so may jeopardize her claims against the now-unnamed parties.
- If Plaintiff wishes to oppose Defendants' pre-motion letter, which she is not required to do, she must do so on or before February 21, 2017.
- Defendants must file any opposition to Plaintiff's Motion for Reconsideration on or before February 21, 2017.
- The parties must appear for a Pre-Motion Conference in this case on February 27, 2017, at 3:30 PM in Room 618 of the Thurgood Marshall Courthouse, 40 Foley Square, New York, New York. At this conference the Court will discuss Plaintiff's motion for reconsideration and Defendants' contemplated motion to dismiss.

SO ORDERED.

Dated: January 31, 2017  
New York, New York



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KATHERINE POLK FAILLA  
United States District Judge

*A copy of this Order was mailed by Chambers to:*

Kelly Price  
534 W. 187th Street  
Apt. # 7  
New York, NY 10033